



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Development of "Local Rule" for Water Measurement Law, Senate Bill 229 (1992)

MEETING DATE: March 1, 1995

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt the attached resolution establishing a "Local Rule" which would allow the City of Lodi to continue to collect fees on new water services for water meters and installation but make the installation in the future.

BACKGROUND INFORMATION: In the fall of 1991, the attached Senate Bill 229 was signed into law by the Governor and took effect January 1, 1992. The law reads, in part, "... every water purveyor who sells, leases, rents, furnishes, or delivers water service to any person shall require, as a condition of new water service on and after January 1, 1992, that a suitable water meter to measure the water service shall be installed on the water service ...". The bill further states, "The cost of installation of the meter shall be paid by the user of the water, and any water purveyor may impose and collect charges for those costs." However, Senate Bill 229 does not require the water purveyor to read the water meter(s), only to install. Staff has had difficulty dealing with this provision.

In January 1992, the City began collecting funds for water meters and their installation for all new water services. Residential improvement projects that exceed \$27,400, triggering Public Works off-site improvement requirements, are also required to pay for a meter, its installation, and the upgrade of the existing water service to City standards.

To date, the City has collected funds to purchase and install 470 residential water meters on new water services; however, none of these residential meters have been installed. Meters are installed on all new commercial and industrial services. These meters are read and billing is based on metered rate.

During the summer of 1994, Water Utility staff, somewhat uneasy with non-compliance of Senate Bill 229, initiated inquiries into what other unmetered communities were doing. Staff learned that those communities contacted were installing the meters as required by law, but many were not reading the meters or billing based on a metered rate.

In the fall of 1994, we contacted John Kramer, a staff attorney with the California Department of Water Resources (DWR). This State agency has an overview of Senate Bill 229. Staff explained to DWR's attorney that, since the January 1, 1992 enactment of SB229, Lodi had been collecting fees for water meters and their installation for new residential services and for remodel projects exceeding \$27,400. However, we explained we had not yet installed any of these meters for the reasons that follow:

APPROVED: _____

THOMAS A. PETERSON
City Manager



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Development of "Local Rule" for Water Measurement Law, Senate Bill 229 (1992)

March 1, 1995

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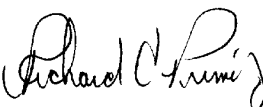
- SB229 did not require meter to be read.
- SB229 did not require billing to be based on a metered rate.
- If meters were installed, we would experience unnecessary wear which would shorten the life of these expensive meters.
- The City had not yet developed a metered rate for residential users. This would be developed with the City's next water rate increase. These new rates would warrant the meter installation, their reading and billing based on meter readings.
- The collected funds were placed in a dedicated account for purchasing and installing the required meters. The water fund accrued interest which can be used to offset any inflationary cost.

The DWR attorney confirmed that the law did not require that the meter be read and that our reasons for not installing the water meters were very logical and had merit. He indicated he wanted to research to see if we were actually breaking the intent of the law.

Within a few days, the DWR attorney contacted us and stated that Section 110 (SB229) of the Water Code was very clear . . . "shall require, as a condition of new water service on and after January 1, 1992, that a suitable water meter to measure the water service shall be installed . . .". The DWR attorney went on to state that there is no watchdog group on this law. No enforcement procedure exists for those not complying with the law. The State Attorney General has not yet had to review a complaint. DWR's attorney further stated that the City could consider the development of a "Local Rule" which could state its intentions of complying with the law in a time frame that could stand up in court. Having a Local Rule would be reason(s) for holding off on actual installation of meters at this time.

Staff recommends City Council consider adopting the attached resolution which would establish a "Local Rule" and allow us to continue with the current practice of collecting fees, but delaying setting the meters until sometime in the future when it is more prudent.

FUNDING: Not Applicable.


for Jack L. Ronsko
Public Works Director

Prepared by Fran Forkas, Water/Wastewater Superintendent

JLR/FEF/dsg

Attachments

cc: City Attorney
Water/Wastewater Superintendent
City Engineer
DWR Attorney John Kramer

Frank: info
file with your
stuff

Senate Bill No. 229

CHAPTER 407

An act to add Section 110 to, and to add Chapter 8 (commencing with Section 500) to Division 1 of, the Water Code, relating to water service.

[Approved by Governor September 16, 1991. Filed with Secretary of State September 17, 1991.]

LEGISLATIVE COUNSEL'S DIGEST

SB 229, Boatwright. Water service: meters.

Under existing law, water meters are not required to be installed on all water facilities and systems which deliver water.

This bill would require the installation of water meters, as defined, on new potable water service connections on and after January 1, 1992. The bill would exempt prescribed community water systems and wells from this requirement. The bill would require domestic cold water meters to be in compliance with prescribed standards and to be of a specified type.

The bill would make legislative findings and declarations.

The people of the State of California do enact as follows:

SECTION 1. Section 110 is added to the Water Code, to read:

110. (a) Notwithstanding any other provision of law, every water purveyor who sells, leases, rents, furnishes, or delivers water service to any person shall require, as a condition of new water service on and after January 1, 1992, that a suitable water meter to measure the water service shall be installed on the water service facilities in accordance with Chapter 8 (commencing with Section 500). The cost of installation of the meter shall be paid by the user of the water, and any water purveyor may impose and collect charges for those costs.

(b) For purposes of subdivision (a), "water purveyor," "person," "water service," and "water meter" have the same meaning as defined in Article 2 (commencing with Section 510) of Chapter 8.

(c) Subdivision (a) applies only to potable water.

(d) Subdivision (a) does not apply to a community water system which serves less than 15 service connections used by yearlong residents or regularly serves less than 25 yearlong residents, or a single well which services the water supply of a single family residential home.

SEC. 2. Chapter 8 (commencing with Section 500) is added to Division 1 of the Water Code, to read:

CHAPTER 8. WATER MEASUREMENT

Article 1. Short Title

500. This chapter shall be known and may be cited as the Water Measurement Law.

Article 2. Definitions

510. Unless the context otherwise requires, the provisions of this article govern the construction of this chapter.

511. The definition of a word applies to any of its variants.

512. "Water purveyor" means any person who furnishes water service to another person.

513. "Person" means any individual, firm, association, partnership, corporation, or public entity of any kind.

514. "Public entity" includes a city, county, city and county, whether general law or chartered, a district, board, commission, bureau, authority, agency, department, division, section, any other political subdivision of the state of any kind, or the state.

515. "Water service" means the sale, lease, rental, furnishing, or delivery of water for beneficial use, and includes, but is not limited to, contracting for that sale, lease, rental, furnishing, or delivery of water, except bottled water.

516. "Water meter" includes any suitable water measuring device or facility which measures or determines the volumetric flow of water.

Article 3. Declaration of Policy

520. The Legislature hereby finds and declares that, pursuant to the primary interest of the people of the state to put the limited available supplies of water in this state to beneficial use to the fullest extent of which they are capable, and to prevent waste, unreasonable use, or unreasonable method of use, it is necessary to determine the quantities of water in use throughout the state to the maximum extent that is reasonable to do so.

521. The Legislature further finds and declares that water furnished or used without any method of determination of the quantities of water used by the person to whom the water is furnished has caused, and will continue to cause, waste and unreasonable use of water, and that this waste and unreasonable use should be identified, isolated, and eliminated.

522. The Legislature further finds and declares that waste or unreasonable use of water imposes unnecessary and wasteful consumption of energy to deliver or furnish the water, and it is necessary, therefore, to determine the quantities of water in use throughout the state to the maximum extent that it is reasonable to

do so in order to reduce that energy consumption.

523. The Legislature hereby finds and declares that the California goal for measurement of water use is the achievement by January 1, 1992, of the installation of water meters on all new water service connections after that date to systems and facilities owned, operated, or under the management or control of a water purveyor, which meters will measure the quantity of water furnished or delivered through each system or facility to each new user of the water.

Article 4. Standards

530. Domestic cold water meters shall be in compliance with relevant standards of the American Water Works Association and shall be of the type approved by the Director of Food and Agriculture pursuant to Section 12500.5 of the Business and Professions Code.

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RESOLUTION NO. 95-28

A RESOLUTION OF THE LODI CITY COUNCIL
ESTABLISHING A "LOCAL RULE" FOR
WATER MEASUREMENT LAW
(SENATE BILL 229)

WHEREAS, the City of Lodi has the responsibility to comply with Water Measurement Law, Senate Bill 229 (1992); and,

WHEREAS, Senate Bill 229 does not require water meters to be read or billings to be based on metered rate; and,

WHEREAS, if meters were installed at this time unnecessary wear would shorten the life of those meters; and,

WHEREAS, the City of Lodi does not have a residential meter users rate at this time; however, it is anticipated it is possible the City may establish a rate with the City's next water rate increase; and

WHEREAS, the City of Lodi has been collecting fees for meters since January, 1992, as required by Senate Bill 229. These funds are placed in a dedicated account specifically for purchase and installation of the required meters.

NOW, THEREFORE, BE IT RESOLVED, that the City of Lodi does hereby establish a "Local Rule", under which the City of Lodi will continue to collect fees on new water services for water meters and installations, but make the installations in the future at such time as metered billing is implemented.

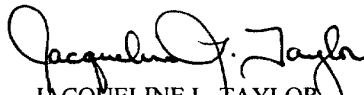
Dated: March 1, 1995

I hereby certify that Resolution No. 95-28 was passed and adopted by the Lodi City Council in a regular meeting held March 1, 1995 by the following vote:

AYES: COUNCIL MEMBERS Davenport, Pennino, Sieglock, Warner and Mann (Mayor)

NOES: COUNCIL MEMBERS - None

ABSENT: COUNCIL MEMBERS - None


JACQUELINE L. TAYLOR
Acting City Clerk

95-28